IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

WEDNESDAY, THE 26TH SEPTEMBER 2007 / 4TH ASWINA 1929

WP(C).No. 27949 of 2007(B)

PETITIONER:

REJETH RAJAGOPAL, S/O. RAJAGOPAL,
AGED 32, RESIDING AT LAKSHMI OLAYIL, KOLLAM.

BY ADV. SRI.BECHU KURIAN THOMAS

RESPONDENTS:

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1. UNION OF INDIA,
REPRESENTED BY SECRETARY, MINISTRY OF
EXTERNAL AFFAIRS, NEW DELHI.

2. REGIONAL PASSPORT OFFICER,
PASSPORT OFFICE, THIRUVANANTHAPURAM.

BY ADV. SRI.P.PARAMESWARAN NAIR,ASST.SOLICITOR

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 26/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC,J.

W.P (C) No. 27949 of 2007

Dated this the 26th day of September, 2007

J U D G M E N T

The prayer in this writ petition is for a direction to the 2nd respondent to correct the place of birth in the petitioner's passport, based on Exhibit P2 Birth Certificate, without insisting on an order from the Judicial Magistrate. It appears that there was a practice prevailing in the 1st respondent's office that when a correction sought for they used to insist on an order from the Judicial Magistrate Court. That was based on a Circular issued by the Government of India on 22nd December, 1994. Learned Counsel for the petitioner has now made available Circular No.VI/401/2/5/2001 dated 18th April, 2001 which is extracted as follows:

> "As per the current practice, in case of change of date of birth/place of birth, the applicant is required to produce the original declaratory order from a First Class Judicial Magistrate. However, in view of the recent judgment given by the High Court of Judicature at Mumbai in CWP No.1072 of 2000 filed by Shri Jigar Harish Shah, the following clarifications are issued:
>
> (a) Where an applicant is seeking rectification/ correction of a mistake in the entry on date of birth/place of birth in the passport, PIA may after verifying/satisfying himself, affect the correction treating the same as a technical correction.

There is no need for a declaratory order in such cases.

(b) Where a competent authority issuing a birth certificate or an educational board registering a date of birth along with place of birth as valid were to issue any correction or amendment, PIA may effect the necessary amendment in the passport without insisting on a Court Order. As per the provisions of Section21 of the general clauses Act 1997, a competent authority issuing a Certificate could also make necessary amendments to the same.

(c) Where the initial entry has been made on the basis of a supportive document issued by one competent authority i.e., school/educational authority and the application subsequently requests for a change on the basis of a certificate issued by another competent authority ie. municipal authorities resulting in conflicting sources of valid proof, the PIA should direct the applicant to obtain a civil order from a competent court of jurisdiction, certifying the valid date of birth/place of birth."

2. In the light of the circular , there is no warrant for the 2nd respondent to insist on production of an order from the Judicial First Class Magistrate Court. Now that the petitioner has made an application for correction on the strength of Exhibit-P2 Birth Certificate it is for the 2nd respondent to consider the request of the petitioner and pass orders.

3. Taking into account Exhibit-P2 and the circular referred to above, a decision in this regard will be taken by the 2nd respondent, as expeditiously as possible, at any rate, within two weeks from the date of receipt of a copy of this judgment.

Petitioner shall produce a copy of this judgment before the 2nd respondent, for compliance. The writ petition is disposed of as above.

(ANTONY DOMINIC, JUDGE)

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K.THANKAPPAN,J

CRL.A. NO.92 OF 1999

ORDER

25th May, 2007